

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES OF AMERICA

v.

SCOTT EDWARD WILLYARD

)
)
)
)
)

**No. 3:07-CR-44
(Phillips)**

MEMORANDUM AND ORDER

On April 25, 2008, the Honorable C. Clifford Shirley, Jr., United States Magistrate Judge, filed a 17-page Report and Recommendation (R&R) [Doc. 264] in which he recommended that defendant Willyard's motion to suppress statements [Doc. 113] be granted in part and denied in part. No objections have been filed by the parties. After a careful review of this matter, the court is in complete agreement with the magistrate judge's recommendation that defendant's statements made between defendant's arrest on Interstate 40 at 10:44 a.m. and his waiver of his *Miranda* rights at 1:34 p.m. on January 27, 2006 at the Lenoque County Sheriff's Office should be suppressed since defendant was not advised of his *Miranda* rights as required by the Fifth Amendment. Any statements made by defendant in response to Trooper Coleman's questioning during the initial traffic stop are not subject to suppression, nor any statements made by defendant to officers at the Lenoque County Sheriff's office after defendant waived his *Miranda* rights at 1:34 p.m.

Accordingly, the court **ACCEPTS IN WHOLE** the report and recommendation under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). It is **ORDERED**, for the reasons stated in the report and recommendation, which the court adopts and incorporates into its ruling, that defendant's motion to suppress statements is hereby **GRANTED IN PART AND DENIED IN PART**: defendant's motion to suppress statements made between defendant's arrest on Interstate 40 at 10:44 a.m. and his waiver of his *Miranda* rights at 1:34 p.m. on January 27, 2006 at the Lonoke County Sheriff's Office is **GRANTED**; defendant's motion to suppress statements is **DENIED** in all other respects.

ENTER:

s/ Thomas W. Phillips
United States District Judge